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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,519

06/17/2005

Frederic Berier

0501-1137

2864

466 7590 06/04/2007
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EXAMINER

LAMPRECHT, JOEL

ART UNIT

PAPER NUMBER

3737

MAIL DATE

DELIVERY MODE

06/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,519

Applicant(s)

BERIER ET AL.

Examiner

Joel M. Lamprecht

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/19/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-22 rejected under 35 U.S.C. 102(e) as being anticipated by Seibel (US 6,975,898 B2). Seibel discloses a miniature confocal optical head for a confocal imaging system (Col 6 Line 65- Col 7 Line 50) with a point source to produce a beam, optical means for causing the beam to converge into an excitation point perpendicular to the optical axis, means for scanning to describe a field of view in two perpendicular directions (Col 10 Line 20 – Col 11 Line 45), rapid line scanning and column scanning, and the inclusion of MEMs capable of moving in translation along a chosen displacement (Col 11 Line 45-Col 12 Line 65), the capability to both scan slowly and in real time (Col 17 Line 15-45), the inclusion of a divergent optical beam and optical means for transforming the beam into a parallel beam and focusing the beam onto the focus point (Col 18 Line 30-65, Col 11 Line 25- Col 13 Line 65), as well as mobile optical means capable of slow column scanning. Seibel also discloses having both optical means as mobile for the purpose of being moved in a direction perpendicular to the optical axis to define a scanning direction (Col 11 Line 25-45, Col 12 Line 45-Col 14

Line 40), the source is mobile, fixed to a piezoelectric means which can move the excitation beam, the use of a piezoelectric positioner extending along the optical axis of the head (Col 13 Line 35 – Col 16 Line 10), means for modifying the depth of the subsurface observation plane (Col 17 Line 45 – Col 18 Line 10), including MEMs means capable of moving the optical focusing means to move along the optical axis of the beam (Col 12 Line 1-Col 15 Line 40), the terminal part of single-mode optical fiber capable of guiding the excitation signal from an external source (Col 15 Line 35-65), allowing for spatial filtering of the return signal to comply with the confocality of the head (Col 19 Line 60-Col 20 Line 52, Col 15 Line 5-60), the source being of a VCSEL type having a numerical aperture and cavity outlet compatible with a confocal system (Col 12 Line 65- Col 14 Line 15 (How fiber-based system is setup) along with Col 18 Line 50 – Col 19 Line 60), a tight window at the outlet to come into contact with the specimen for index matching (Col 25 Line 15-65, Col 15 Line 45- Col 16 Line 10), that window having refractive power function on the focused beam, and finally processing means for processing the emitted signal and reconstructing a confocal image of an imaged field (Col 24 Line 40- Col 25 Line 15).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is listed on the enclosed references cited sheet.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joel M. Lamprecht whose telephone number is (571) 272-3250. The examiner can normally be reached on Monday-Friday 7:30AM-4PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571)272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
5/23/07


ELENI MANTIS MERCADER
SUPERVISORY PATENT EXAMINER